

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

UNITED STATES OF AMERICA §
v. §
§ Case No. 6:07-cr-90-JDK-JDL
§
PAUL EDWARD THOMAS (02) §

ORDER GRANTING LEAVE TO APPEAL *IN FORMA PAUPERIS*

The Court hereby **VACATES** and **STRIKES** its previous Order, dated January 12, 2021 (Docket No. 300).

On October 19, 2020, the Court denied Appellant Paul Edward Thomas's motion for compassionate release. Docket No. 293. Appellant timely filed a notice of appeal on November 12, 2020. Docket No. 295. On December 29, 2020, Appellant moved for leave to proceed *in forma pauperis* on appeal.¹ Docket No. 299.

Federal Rule of Appellate Procedure 24(a)(3)(A) and 28 U.S.C. § 1915(a) govern the granting of *in forma pauperis* status on appeal. A party previously determined to be financially unable to obtain an adequate defense in a criminal case may proceed on appeal *in forma pauperis* if the appeal is taken in good faith. Fed. R. App. P. 24(a)(3)(A).

Here, the Court previously determined that Appellant was financially unable to obtain adequate representation. Docket No. 7. Further, this appeal likely concerns an issue that has divided courts—specifically, whether the First Step Act’s non-retroactive reduced penalties under 18 U.S.C. § 924(c) constitute extraordinary and

¹ Plaintiff initially moved for leave to appeal *in forma pauperis* on December 18, 2020. Docket No. 298. In light of the subsequent motion, the initial motion is DENIED as moot.

compelling grounds to reduce a sentence. *See* Docket No. 293 at 6 n.3. Based on this uncertainty, the Court finds that this appeal is taken in good faith.

Accordingly, the Court hereby **GRANTS** Appellant's motion for leave to appeal *in forma pauperis* (Docket No. 299).

So **ORDERED** and **SIGNED** this **3rd** day of **February, 2021**.



JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE